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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,088	04/14/2006	Matthias Zoch	1703 1507US	6747

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DREISS, FUHLENDORF, STEIMLE & BECKER
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D-70032 STUTTGART,
GERMANY

EXAMINER

KIDWELL, MICHELE M

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

07/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/576,088

Applicant(s)

ZOOCH ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments, see Remarks, filed July 9, 2008, with respect to the rejection(s) of claim(s) 11 - 23 under Hamajima et al. (US 2001/0039406) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Anderson et al. (US 4,100,324) and further in view of Cree et al. (US 5,591,149).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (US 4,100,324) and further in view of Cree et al. (US 5,591,149)

With reference to claim 11, Anderson et al. (hereinafter "Anderson") discloses a disposable sanitary product (col. 12, line 60) comprising a storage layer having hydrophilic melt-blown microfibers (col. 2, lines 28 – 31 and 49 – 52) and superabsorbing material (col. 2, lines 55 – 60) in the claimed amounts (col. 8, lines 31 - 35) with the melt blown fibers being connected as claimed as set forth in the abstract.

The difference between Anderson and claim 11 is the provision that the disposable sanitary napkin includes a permeable topsheet, an impermeable backsheet and an absorbent body disposed therebetween.

Anderson anticipates the storage layer for use within a diaper, catamenial napkin and/or wound dressing as set forth in col. 12, lines 60 - 61.

Cree et al. (hereinafter "Cree") teaches a catamenial napkin that includes a liquid permeable topsheet, a liquid impermeable backsheet and an absorbent core disposed therebetween as set forth in the abstract.

It would have been obvious to one of ordinary skill in the art to provide Anderson with the topsheet and backsheet configuration of Anderson the use of such provides an article that effectively accepts and distributes fluids while retaining fluids and preventing undesirable leakage as taught by Cree in col. 5, lines 33 – 39 and detailed explanations of individual element.

Further, while Anderson does not explicitly disclose particulate superabsorbing material, Anderson recognizes the use of different types of wood pulp fibers (col. 7, lines 13 – 21) which would motivate one of ordinary skill in the art to substitute one type (fibrous) of superabsorbing material for another (particulate).

Moreover, it would have been obvious to one of ordinary skill in the art to modify the basis weight of the microfiber to provide desired weight because Anderson recognizes the basis weight as a result effective variable as set forth in col. 8, lines 10 – 14 and therefore, the modification of such would be within the level of ordinary skill in the art.

With respect to the claimed strength in both a wet and dry state, the examiner contends that Anderson provides an article that may be deemed structurally identical to that claimed. In light of such, one can reasonably assume that Anderson will function as claimed when subjected to the claimed states.

Likewise, the applicant is reminded that the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As to claim 12, see col. 8, lines 31 – 35 of Anderson.

With reference to claims 13 and 22 – 23, see the rejection of claim 11.

As to claims 15 – 20 and 22 – 23, see the rejection of claim 11. Additionally, Cree teaches a sanitary product having a bottom and/or top absorbent layer with the claimed amount of meltblown fibers as set forth in col. 22, lines 39 – 46.

As to claim 21, Cree teaches a sanitary product further comprising a porous or fibrous layer disposed between said storage layer and said top sheet to rapidly absorb liquid as set forth in col. 9, lines 5 – 19.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Kidwell/
Primary Examiner, Art Unit 3761